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|---|-------------|----------------------|---------------------------|------------------|
| 09/747,540  | 12/22/2000  | Vincent E. Majkowski | GEMS:0130/YOD(15-EC-5791) | 2091             |
| 7590  | 12/13/2005  |                      |                           |                  |
| Patrick S. Yoder<br>Suite 330<br>7915 FM 1960 West<br>Houston, TX 77070 |             |                      | EXAMINER<br>JABR, FADEY S |                  |
|   |             |                      | ART UNIT                  | PAPER NUMBER     |
|   |             |                      | 3639                      |                  |
| DATE MAILED: 12/13/2005   |             |                      |                           |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/747,540

**Applicant(s)**

MAJKOWSKI, VINCENT E.

**Examiner**

Fadey S. Jabr

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims **1-6, and 20-24** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per **Claims 1-6, and 20-24**, the recitation “question is designed to determine” is vague and indefinite. It is unclear to the Office how the Applicant is “determining” the desired answers from the user. Appropriate correction is required in the indicated claims and any subsequent recitations.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor et al., U.S. Patent No. 6,070,149 in view of Henley, Pub. No. US/2002/0065758 A1 and Bui et al., U.S. Patent No. 6,830,549 B2.

As per **Claims 1, 14, 17 and 19**, Tavor et al. discloses a system coupled to a network to provide a customer with information for a recommended system, the computer system comprising:

- an application server to direct a query page to the customer via the network, the query page comprising a plurality of questions and a plurality of answer choices for each question, wherein the plurality of questions are designed to establish whether at least one of a plurality of systems is suitable as a possible system for the customer (Col. 3, lines 19-24, 33-37; Col. 10, lines 54-59; see also Figures 3 and 22);
- a comparison program to receive the customer's answer choices and compare the customer's answer choices to a plurality of predicted answer choices, each of the plurality of predicted answer choices corresponding to a specific system (Col. 12, lines 48-59; also see Figure 5); and
- a server to provide a results page to the customer via the network, the results page providing the customer with the specific system as a recommended system if the customer's answer choices match the predicted answer choices corresponding to the specific system (Col. 9, lines 38-48; also see Figure 6).

Tavor et al. fails to disclose that the product being sold over the Internet is an ambulatory monitoring (AM) system. However, Henley teaches selling medical products or services online (Para. 19), while Bui et al. teaches that an AM system with a data recorder can be purchased (Col. 2, lines 62-67; Col. 3, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Tavor et al. and include the product being a medical device such as an ambulatory monitoring system as taught

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by Henley and Bui et al. because it greatly improves the convenience of the system by providing the user with a medical device that is widely used and has many different models, which a user would need help in determining which system to purchase.

As per **Claims 2-6 and 20-24**, Tavor et al. further discloses a system that determines the needs of the user (Col. 3, lines 31-37). Tavor et al. fails to disclose the specific questions used to determine the user's need. However, It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use any questions to determine the user's need for the product.

As per **Claims 7, 8, 10, 11, 16, 18, 25, 26, 29-33, 38 and 39**, Tavor et al. discloses the use of HTML, XML, Java applets and Java scripts within the system (Col. 2, lines 21-28, 33-34, 40-41; Col 34, lines 35-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to write the application server, comparison program, query page, and results page in Java applets and Java scripts.

As per **Claim 9**, Tavor et al. further discloses a system wherein the plurality of predicted answer choices and the corresponding specific systems are stored in a product selector file (Col. 8, lines 36-47; Col. 12, lines 48-59; see also Figures 3 and 5).

As per **Claims 12, 13 and 28**, Tavor et al. fails to disclose a system wherein each question and query page have an associated link to a help page. Official notice is taken that help

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pages are old and well known in the art to guide users through websites when they are unclear of what to do as shown in Henley (Figures 12-14). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Tavor et al. and include a help page associated with each question and query page because it greatly improves the convenience of the system by providing the user with efficiency and a system that is user-friendly.

As per **Claim 27**, Tavor et al. further discloses a system wherein each question is a multiple-choice question (Col. 8, lines 36-47; see also Figure 3).

As per **Claims 35 and 40**, Tavor et al. discloses a method of utilizing a computer system coupled to a network to assist a customer to configure a system from among a plurality of systems, components and software, the method comprising the acts of:

- connecting a customer communication system to a computer system provided by a system supplier (Col. 3, lines 19-24);
- routing a request for assistance from the customer to a product selector file written in extensible markup language (XML), wherein the product selector file fills a template with questions stored in the product selector file  
(Col. 2, lines 21-28; Col. 9, lines 29-49; Col. 10, lines 22-29);
- delivering the template to a customer  
(Col. 3, lines 19-24, 33-37; Col. 10, lines 54-59; also see Figures 3 and 22);

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- completing the template with the customer communication system and transmitting it to the computer system (Col. 9, lines 39-49);
- receiving a completed template from the customer (Col. 3, lines 31-41; Col. 8, lines 30-47; Col. 9, lines 39-49; Col. 10, lines 54-59; also see Figure 6); and
- determining a recommended system and configuration by comparing customer data derived from the completed template to supplier data stored in the computer system in a product configuration file written in XML, wherein the product configuration file fills a results page with the recommended system configuration for delivery to the customer communication system (Col. 9, lines 38-48; Col. 12, lines 48-59; see also Figures 5 and 6).

Tavor et al. fails to disclose that the product being sold over the Internet is an ambulatory monitoring (AM) system. However, Henley teaches selling medical products or services online (Para. 19), while Bui et al. teaches that an AM system can be purchased (Col. 2, lines 62-67; Col. 3, lines 1-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Tavor et al. and include the product being a medical device such as an ambulatory monitoring system as taught by Henley and Bui et al. because it greatly improves the convenience of the system by providing the user with a medical device that is widely used and has many different models, which a user would need help in determining which system to purchase.

As per **Claim 36**, Tavor et al. further discloses a method wherein routing comprises activating a link in a page to an application server (Col. 3, lines 19-24).

As per **Claim 37**, Tavor et al. further discloses a method wherein the application server routes the request to the product selector file (Col. 3, lines 19-24).

As per **Claim 41**, Tavor et al. further discloses a system wherein the customer communication system is a second computer system having an interface coupled to the Internet (Col. 3, lines 19-24).

As per **Claim 43**, Tavor et al. further discloses a system wherein determining comprises using a program to compare the customer data to the plurality of system configurations of components and software (Col. 3, lines 48-59).

5. Claims **15, 34, 42 and 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor et al., U.S. Patent No. 6,070,149 in view of Henley, Pub. No. US/2002/0065758 A1 and Bui et al., U.S. Patent No. 6,830,549 B2. as applied to claims **1 and 40** above, and further in view of Henson, U.S. Patent No. 6,167,383.

As per **Claim 15 and 34**, Tavor et al. fails to disclose a system wherein a specific configuration of a system comprises a software package. However, Bui et al. teaches of an AM that is programmable (Col. 2, lines 62-67; Col. 3, lines 1-7). Nevertheless, Henson teaches configuring a system to include a software package (Col. 10, lines 11-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Tavor et al. and include a configuration comprising a software package as



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taught by Henson because it greatly improves the system by allowing the user more flexibility in configuring their system.

As per Claims 42 and 44, Tavor et al. fails to disclose a method wherein the supplier data comprises data for a plurality of system configurations of components and software, and a results page with the data for a specific system configuration of components and software. However, Henson teaches supplier data for a plurality of system configurations and then presenting the results to a user (Col. 2, lines 61-67; Col. 3, lines 1-12; Col. 10, lines 11-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Tavor et al. and include data for a plurality of system configurations and then presenting the results to the user because it greatly improves the flexibility of the system by providing the user with more options and a system that is user-friendly.

### *Conclusion*

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadey S. Jabr whose telephone number is (571) 272-1516. The examiner can normally be reached on Mon. - Fri. 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fadey S Jabr  
Examiner  
Art Unit 3639

FSJ


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Hand delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

  
**JOHN W. HAYES**  
**SUPERVISORY PATENT EXAMINER**